

**ORIGINAL**  
**JOHNSON UTILITIES L.L.**



0000065994

5230 East Shea Boulevard \* Scottsdale, Arizona 85254

PH: (480) 998-3300; FAX: (480) 483-7908

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January 26, 2007

Docket Control  
Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007

RE: Johnson Utilities L.L.C.- Application to extend a CC&N  
Docket No. WS-02987A-06-0663

In support of this application we are filing the Master Utility Agreement that we entered into with the numerous land owners of the Skyview Farms Development for approximately 7,292 residences. This agreement represents approximately 98 percent of the land owners in the requested area. If Staff has any additional questions or concerns regarding the agreement or the application please contact me at the above listed number.

Sincerely,

Daniel Hodges

Arizona Corporation Commission  
**DOCKETED**

**JAN 26 2007**

DOCKETED BY	
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RECEIVED  
2007 JAN 26 P 3:21  
CORP COMMISSION  
DOCKET CONTROL

**MASTER UTILITY AGREEMENT**  
**FOR**  
**WATER, WASTEWATER AND RECLAIMED WATER FACILITIES**

**BETWEEN**

**JOHNSON UTILITIES, L.L.C.**  
**dba JOHNSON UTILITIES COMPANY**

**AND**

**LESUEUR INVESTMENTS VIII, L.L.C.,**  
**LANDMARK PROPERTY HOLDINGS, LLC,**  
**SKYVIEW OIO, LLC,**  
**GRANT AND FERN ELLSWORTH AS TRUSTEES OF THE ELLSWORTH**  
**REVOCABLE LIVING TRUST DATED MAY 22, 1984,**  
**MDM FARMS, L.L.C.,**  
**CASA GRANDE CAMP FARM L.L.C.**

**FOR**

**SKYVIEW FARMS**  
**PINAL COUNTY, ARIZONA**

**January 25, 2007**

## MASTER UTILITY AGREEMENT

THIS MASTER UTILITY AGREEMENT (the "Agreement") is entered into this 25th day of January 2007, by and between JOHNSON UTILITIES, L.L.C., dba JOHNSON UTILITIES COMPANY (hereinafter referred to as the "Company") and LESUEUR INVESTMENTS VIII, L.L.C., an Arizona limited liability company, LANDMARK PROPERTY HOLDINGS, LLC, an Arizona limited liability company, SKYVIEW OIO, LLC, an Arizona limited liability company, GRANT AND FERN ELLSWORTH (or their successor), as Trustees of the Ellsworth Revocable Living Trust dated May 22, 1984 and any amendments thereto, MDM FARMS, L.L.C., an Arizona limited liability company, and CASA GRANDE CAMP FARM L.L.C., an Arizona limited liability company, (collectively referred to hereafter as the "Owner").

### WITNESSTH

WHEREAS, the Company owns and operates a public service corporation and holds a certificate of convenience and necessity authorizing it to provide the public with water and wastewater utility services; and

WHEREAS, the Owner is planning residential and commercial improvements within the Skyview Farms master planned community in Pinal County (the "Master Plan") and desires the Company to provide water, wastewater and reclaimed water service to the Master Plan, which is legally described on **Attachment A** hereto, pursuant to the terms and conditions contained in this Agreement; and

WHEREAS, the Company intends to diligently pursue Commission approval of the Company's application to extend the Certificate of Convenience and Necessity (the "Certificate") of the Company to include the Master Plan, and Owner intends to reasonably cooperate with the Company in the Company's application; and

WHEREAS, it is anticipated that, when developed, the Master Plan will include up to a maximum of approximately 7,292 residential dwelling units and related commercial property; however, the parties acknowledge that the number of residential dwelling units and the amount of related commercial property ultimately developed within the Master Plan may change in accordance with economic demand and market efficiencies; and

WHEREAS, Owner intends to sell platted subdivisions within the Master Plan to various builders who will construct homes within that subdivision; and

WHEREAS, the Owner must obtain certain zoning authorizations and approvals for the Master Plan on a community wide basis; and

WHEREAS, the homes within the Master Plan may be constructed by numerous builders in as yet undetermined phases; and

WHEREAS, it is necessary for the Owner to have certain assurances regarding the provision of water, wastewater and reclaimed water services and facilities within the Master Plan at this time for the Owner to (1) obtain the required approvals for the Master Plan, (2) obtain commitments from prospective builders of subdivisions within the Master Plan, and (3) secure the necessary financing for future development of and improvements within the Master Plan; and

WHEREAS, in connection with it providing utility services, the Company is authorized and required to assess off-site facilities Hook-Up Fees ("HUFs") for water and wastewater service pursuant to Arizona Corporation Commission (hereinafter referred to as the "Commission") Tariffs authorized for the Company; and

WHEREAS, in areas such as the Master Plan, in which the Company does not presently own and operate water distribution and/or wastewater collection systems, the Commission Rules and Regulations contemplate the Company and the Owner entering into line extension agreement(s) more particularly described below; and

WHEREAS, for the Owner to obtain Arizona Real Estate Department approval for the various subdivisions within the Master Plan, it is necessary for the Owner to provide a Certificate of Assured Water Supply from the Arizona Department of Water Resources (hereinafter referred to as "ADWR") for each subdivision; and

WHEREAS, the Company has received from ADWR a Designation of Assured Water Supply applicable to the Company's service area that is sufficient to meet the above requirement; and

WHEREAS, the Owner needs certain assurances as to the timing of construction of certain utility facilities and the adequacy of utility services for the Master Plan.

#### AGREEMENT

NOW, THEREFORE, it is mutually covenanted and agreed by and between the parties hereto as follows:

1. Company shall reasonably and diligently pursue Commission approval of its application to extend its Certificate to include the Master Plan, and Owner shall do whatever is reasonably necessary to assist Company in obtaining Commission approval of the application.

2. To permit the Company to provide wastewater treatment plant capacity, lift-stations, transmission mains, an effluent delivery system, and sludge disposal facilities, as well as the water wells, treatment if necessary, storage, pressure and the transmission facilities, necessary to meet the Company's requirements and to serve the Master Plan, Owner agrees to advance HUF payments on a plat by plat basis, meaning that HUF payments shall be made for the specific number of platted residential units that receive final plat approval, with the initial block of HUFs to include at least 1,000 units.

Such HUF payments shall be made to the Company in accordance with **Attachment B** hereto within twenty (20) days after recording of a specific final plat. All HUF payments shall be made in accordance with the Commission approved Tariff for the Company, as set forth in **Attachment B**. After payment of the initial block of HUFs, Owner shall only be required to make HUF payments for the specific number of residential units included in each respective final plat. Failure to pay the HUFs in accordance with **Attachment B** for the specific units that receive final plat will relieve the Company of its obligation to provide water or wastewater services, or any assurances of such services, until all the HUF payments for said specific lots that receive final plat have been paid. Any applicable Gross-Up Tax associated with the HUFs shall be assessed and refunded under the respective line extension agreement(s) described below. All funds collected by the Company as HUFs shall be deposited into an interest bearing account and used for the purpose of paying for the costs of off-site facilities, including repayment of loans obtained for the installation of off-site facilities. Notwithstanding any provision of this Agreement, or by the payment of any HUF, the Owner shall have no right, title or interest in, or claim to service from, any specific plant of the Company.

3. The HUFs for any additional units and for all commercial parcels in the Master Plan shall be computed and paid to the Company as stated above and paid to the Company at the time of the closing of escrow for the sale of each respective parcel to an entity not under common control of Owner.

4. It is understood and agreed that at the time a water meter installation request has been executed for a lot, the wastewater service to that lot shall start, and the tariffed charges for water and sewer service to that lot shall commence, whether that service is utilized or not.

5. Upon payment of the initial block of HUFs by the Owner, the Company shall allocate units of its Designation of Assured Water Supply to the Master Plan equal to the service requirements associated with the Master Plan, and shall take all reasonable actions to assist the Owner with final plat approval.

6 Commencing September 1 of the year first following the Company's service to the first customer within the Master Plan, Owner or its successor shall provide the Company with a schedule indicating, to the best of Owner's or its successor's knowledge, the projected development schedule for the Master Plan, including the numbers and types of residential units expected to be constructed, any commercial and industrial development, the phasing of the projects within the Master Plan, and the estimated number of units constructed annually until build-out is reached. Owner or its successor shall thereafter provide the Company updated projections on or before September 1 of each succeeding calendar year through build-out.

7. The HUFs and applicable line extension agreement costs, if any, for any service established outside of a subdivision (i.e. irrigation, commercial, multi-family or industrial) shall be based on the Tariff charges and shall be paid at the time the service is requested.

8. All HUFs under this Agreement are non-refundable advances pursuant to the Company's approved Tariff.

9. The Company shall supply water, wastewater and reclaimed water service to the initial phase of the Master Plan as and when requested (but in no event later than twelve (12) months after the initial block of HUFs are paid), provided Owner has (i) paid the initial block of HUFs to the Company in accordance with this Agreement and (ii) given no less than six (6) months written notice to the Company of said requested water, wastewater and reclaimed water services for the initial phase of the Master Plan prior to the payment of the initial block of HUFs. With respect to all subsequent phases within the Master Plan, the Company shall supply water, wastewater and reclaimed water service as and when requested (but in no event later than twelve (12) months after the HUFs are paid for each respective final plat), provided the Owner has (a) paid the applicable block of HUFs to the Company in accordance with this Agreement and (b) given no less than six (6) months written notice to the Company of said requested water, wastewater and reclaimed water service prior to the payment of the applicable block of HUFs. All water, wastewater and/or reclaimed water services shall be provided to the Master Plan at service standards no less than the standards provided to other utility customers within the Company's service area. Upon payment of the HUFs for each phase or subdivision, the Company shall undertake such advance planning, process all government approvals and permits, and undertake construction so as to timely serve potential customers as and when service to such customers is requested and needed as set forth in this Paragraph 9.

10. Upon execution of this Agreement, Owner shall provide to the Company in a digital format (i.e. AutoCad, MicroStation or .dxf format or as otherwise specified by the Company), available data for the Master Plan reasonably requested by the Company, including where reasonable ALTA surveys, topographical, aerials, tentative plats, engineering plans, and final plats.

11. Prior to wastewater service being provided to the Master Plan, the Company shall be responsible for causing the construction of one (1) sanitary lift station and appropriate force mains through dedicated rights of way connecting to the Company's existing mains for transmission to the Section 11 or Anthem wastewater treatment plants. The size and location of the lift station and force mains shall be mutually agreed upon by Owner and the Company. The required lift station site within the Master Plan will be platted as a tract in the Master Plan and conveyed by Owner (or Owner's successor in interest) to the Company by Special Warranty Deed substantially in the form of **Attachment C** hereto and must include appropriate maintenance, ingress and egress easements substantially in the form of **Attachment D** hereto. Conveyance of the lift station site shall be concurrent with recording of the final plat. Said construction of the lift station shall begin within ninety (90) days after the final plat has been recorded and the HUFs for that unit are paid, or within thirty (30) days of ADEQ approval, whichever occurs later.

12. Water service to the Master Plan shall be provided by existing Company owned facilities adjacent to or near the Master Plan, however, the Owner shall convey to the

Company by Special Warranty Deed, substantially in the form of **Attachment C** hereto, three (3) wells (the location of two of which shall be identified at such time as the first phase of the Master Plan obtains final plat) and one (1) reservoir/well site. The respective sizes and locations of said wells and reservoir/well site shall be mutually agreed upon by Owner (or Owner's successor in interest) and the Company, and must include appropriate maintenance, ingress and egress easements substantially in the form of **Attachment D** hereto. Owner shall execute upon request all ADWR forms necessary to transfer said wells and/or reservoir/well site. If the parties mutually determine that an additional well(s) and/or reservoir site(s) are warranted, the parties shall work together to identify and agree upon the applicable size and location of said additional well(s) and/or reservoir site(s). The parties hereby acknowledge that all wells existing at the time this Agreement is executed are being used for agricultural purposes. The parties therefore agree that Owner's dedication of wells and a reservoir site to the Company pursuant to this Paragraph 12 shall occur within thirty (30) days of the recording of the final plat for the first phase of the Master Plan. The location of said existing wells within the Master Plan may not conform to the ultimate development plan for the Master Plan. Accordingly, Owner shall have the right (exercised at Owner's sole discretion) to relocate the well(s) and/or reservoir site(s) that are to be dedicated to the Company pursuant to this Paragraph 12 to a more appropriate location within the Master Plan in order to conform to the ultimate development plan for the Master Plan.

13. Owner acknowledges that it holds certain Irrigation Grandfathered Groundwater Water Rights (the "Rights") associated with approximately 1,900 acres of the Master Plan. The parties agree that Owner may use said Rights to the extent permissible by law for the purpose of farming within the Master Plan; provided however, at the time a final plat for a subdivision to which the Rights are applicable is recorded, Owner shall extinguish the portion of said Rights associated with such final plat, and pledge the resulting extinguishment credits to the Company for inclusion in the Designation or Certificate of Assured Water Supply for the Master Plan. The parties agree to cooperate and execute any and all documents necessary for said extinguishment and pledge of the Rights.

14. Company and Owner agree that the use of Class A+ reclaimed wastewater as defined by the Arizona Administrative Code (hereafter "Reclaimed Water") within the Master Plan for turf irrigation of any golf courses and common areas and for filling any decorative lakes and/or ornamental water features or the like (hereinafter the "Common Area Uses") conserves groundwater resources and is a beneficial use of Reclaimed Water. The Company shall design and construct, at its sole cost and expense, a Reclaimed Water delivery line with a diameter to be determined by the Company, from the Company's Section 11 or Anthem wastewater treatment plants (individually and/or collectively the "WTP") to not less than three (3) points of delivery ("Delivery Points") within the Master Plan, such Delivery Points to be identified by the mutual agreement of Company and Owner no later than six (6) months prior to the payment of the applicable block of HUFs for the Master Plan. The Company shall obtain, at its sole cost and expense, all necessary permits and approvals for the delivery of the Reclaimed Water to the Delivery Points. Owner shall be responsible for obtaining all necessary permit and approvals for the delivery of the Reclaimed Water from the Delivery Points to

the ultimate destinations within the Master Plan. Company and Owner shall each cooperate with the other in the processing of all permits and approvals necessary to deliver Reclaimed Water to the ultimate destinations within the Master Plan. If there are units within the Master Plan that are connected to the WTP, Owner shall have the right to receive up to 3.0 million gallons per day of Reclaimed Water produced by the Company from the WTP for use within the Master Plan in proportion to the amount of effluent actually sent to the WTP. If there are no units within the Master Plan that are connected to the WTP, the Company shall provide Reclaimed Water to the Master Plan if Reclaimed Water is available from the WTP. Owner and Company acknowledge that the amount of Reclaimed Water available to the Master Plan is directly related to the number of residential units connected to the WTP and is beyond the control of the Company and Owner. Owner shall comply with Arizona Administrative Code R18-9-704 Table I requirements for signage within the Master Plan. Upon at least twenty-four (24) hours advanced written notice, Owner or its successor may temporarily reschedule delivery of all or a portion of the amount of Reclaimed Water to be delivered to the Master Plan. The intent of the rescheduling is to allow for adjustments to excessively dry or wet weather conditions. Except as otherwise provided in this paragraph below, Reclaimed Water delivery will not be permanently terminated to the Master Plan. There will be no charge to the Master Plan for the rescheduling of the Reclaimed Water volume originally scheduled for delivery. Owner will provide Company with an updated Reclaimed Water delivery schedule on an annual basis. Owner may permanently terminate all delivery of Reclaimed Water to the Master Plan upon one hundred eighty (180) days written notice to the Company.

15. All facilities constructed under this Agreement shall be operated and maintained in accordance with good utility practice, including but not limited to the use of qualified operators and engineers. All services shall be subject to the Provisions of Service regulations set forth by the Commission and the applicable Arizona Department of Environmental Quality ("ADEQ") Regulations. The election to build a new plant or expand any existing water or wastewater facilities to meet the demands of the Master Plan or the Company's system, and the decision as to which water or wastewater facilities shall be used to serve the Master Plan, shall be at the sole discretion of the Company. The Company represents and warrants to Owner that sufficient capacity does and shall exist in the Company's existing and future mains, water and wastewater treatment facilities, and any and all appurtenant pipes, lift stations, or other facilities, whether or not owned by the Company, such that all water service will be provided to the Master Plan and sewage and wastewater of the Master Plan shall be fully treated and the effluent therefrom shall be fully and properly disposed of in accordance with all pertinent municipal, county, state and federal regulations and requirements without further obligation of Owner. The Company represents that it has and shall maintain sufficient capacity to satisfy the requirements of ADEQ and other governmental entities for approval of the residential subdivisions in the Master Plan.

16. For each phase or subdivision within the Master Plan, the Owner shall enter into a separate line extension agreement for water and wastewater service in accordance with the Commission's Rules and Regulations, and the Company's Tariff. Under the terms of those agreements, the Owner shall construct, or cause to be constructed, on-site facilities



consistent with the Company's engineering requirements and specifications, and thereafter, convey all right, title and interest in and under those facilities, and any easements if necessary, to the Company. The Company shall annually refund five percent of the total gross revenue from water and wastewater sales to each bona fide customer whose service is connected to the main lines covered by the line extension agreements, less all applicable sales, transaction and privilege taxes and regulatory assessments and surcharges, until such time as the entire advance has been fully refunded. The form of the respective line extension agreements shall be substantially in the form of **Attachments E and F** hereto. The Company shall be responsible for constructing all off-site facilities running through and/or adjacent to the Master Plan. Such off-site facilities shall include, but shall not be limited to, the following: (i) water transmission mains located outside the Master Plan, (ii) wastewater lines located outside the Master Plan (iii) all water and wastewater infrastructure and/or facilities located in, under or through section line roads adjacent to the Master Plan (e.g., but not limited to, Arizona Farms Road and Cooper Road), (iv) treatment plants, lift stations, wells or reservoirs that service properties outside the Master Plan, and (v) water transmission mains and wastewater lines to the extent that such are designed to accommodate properties outside the Master Plan. Owner shall have the right but not the obligation, at the mutual consent of Owner and Company, to construct or cause the construction of said off-site facilities and to pay the costs incurred in constructing the same. If Owner pays the costs of constructing or causing the construction of said off-site facilities, Owner shall submit the invoice(s) for said costs to Company. Company shall, within thirty (30) days after receipt of said invoice(s), fully reimburse Owner for one hundred percent (100%) of said costs. If Owner has not received said reimbursement in full within said thirty-day period, then Owner may deduct said costs expended against any future HUF payments. Prior to commencement of construction of any applicable off-site facilities, Owner shall notify Company of its intention and obtain bids from three (3) separate licensed and reputable contractors to perform said construction. Owner shall provide copies of said bids and Owner's proposed construction schedule to the Company. Owner and Company shall work together in good faith to mutually approve and select a contractor to perform the construction of the applicable off-site facilities. Said contractor shall be licensed to perform the applicable construction, of good reputation, and willing and able to construct the applicable off-site facilities pursuant to the proposed construction schedule provided by Owner to the Company. If Company and Owner can not agree upon and approve a contractor within thirty (30) days of the date upon which Company receives said bids and proposed construction schedule from Owner, Owner shall have the right to select the contractor from said bids and proceed with construction of the applicable off-site facilities.

17. Water and wastewater service, as applicable, shall be provided to the Owner, builder, or the ultimate occupants of the buildings within the Master Plan in accordance with the Commission's Orders, Rules, Regulations, Rates, Charges, Tariffs, Terms and Conditions as applicable to the Company that are currently on file with the Commission. Owner hereby acknowledges that at the time the ultimate occupant/customer requests service, certain additional charges may be payable to the Company by the customer. All rates, charges, terms and conditions are subject to change from time to time as approved by the Commission.

18. Owner may assign its rights under this Agreement to a third party developer or homebuilder buying property from Owner, or partially assign its rights under this Agreement with respect to any part of the Master Plan sold by Owner to a third party developer or homebuilder. A copy of the written Assignment and Assumption shall be delivered to the Company per Paragraph 19. Upon assignment of this Agreement to a third party developer or homebuilder, and the Company's approval of that assignment which approval shall not be unreasonably withheld, the Owner shall be relieved of all liabilities under this Agreement.

19. Except as otherwise required by law, any notice required or permitted under this Agreement must be in writing and must be given by either: (i) personal delivery; (ii) United States certified mail, return receipt requested, with all postage prepaid and properly addressed; (iii) any reputable, private overnight delivery service with delivery charges prepaid and proof of receipt; or (iv) by facsimile machine. Notice sent by any of the foregoing methods must be addressed or sent to the party to whom notice is to be given, as the case may be, at the addresses or facsimile numbers set forth below:

Owner: LESUEUR INVESTMENTS VIII, LLC  
3850 East Baseline Road, Suite 114  
Mesa, Arizona 85206  
Attn: Tyler LeSueur  
Facsimile: (480) 892-5923

Company: JOHNSON UTILITIES, L.L.C.  
5230 East Shea Boulevard  
Scottsdale, Arizona 85254  
Attn: George H. Johnson  
Facsimile: (480) 483-7908

Any party may change its address or telecopy number for purposes of delivery and receipt of notices by advising the other parties in writing of the change. Notice provided by the methods described above will be deemed to be received: (i) on the day of delivery, if personally delivered; (ii) on the date which is three (3) days after deposit in the United States mail, if given by certified mail; (iii) on the next regular business day after deposit with an express delivery service for overnight, "same day", or "next day" delivery service; or (iv) on the date of transmittal, if given on a regular business day and during regular business hours by facsimile machine or telecopy. No notice will be effective unless provided by one of the methods described above.

20. The Company shall take all reasonable actions requested by Owner to assist Company with final plat, ADEQ, and Arizona Department of Real Estate approvals, and Owner shall take all reasonable actions requested by the Company to assist the Company in obtaining all regulatory approvals necessary to serve the Master Plan. Each party shall reimburse the other for all reasonable costs it incurs in providing such assistance.

21. Time is of the essence of this Agreement. The attachments hereto are hereby, by this reference, fully incorporated into this Agreement but may be altered by the Owner and Company, by mutual consent at a future date.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**COMPANY**

JOHNSON UTILITIES L.L.C., an Arizona limited liability company

By: 

Its: EXECUTIVE VICE PRESIDENT

**OWNER**

LESUEUR INVESTMENTS VIII, L.L.C., an Arizona limited liability company

By: DEL Holdings, LLC, an Arizona limited liability company,  
Manager

By: 

Tyler E. LeSueur, Manager

LANDMARK PROPERTY HOLDINGS, LLC, an Arizona limited liability company

By: 

Its: Manager

SKYVIEW OIO, LLC, an Arizona limited liability company

By: Skyview CGC, LLC, an Arizona limited liability company,  
Manager

By: 


Curtis G. Christensen, Manager

By: Skyview TEL, LLC, an Arizona limited liability company,  
Manager

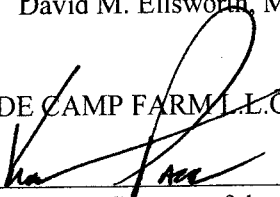
By: 

Tyler E. LeSueur, Manager

MDM FARMS, L.L.C., an Arizona limited liability company

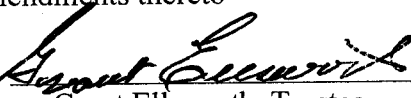
By:   
David M. Ellsworth, Manager


CASA GRANDE CAMP FARM L.L.C., an Arizona limited liability company

  
By: Kent Pace, Trustee of the Pace Family Trust dated 10/4/06

Its: Manager

GRANT AND FERN ELLSWORTH (or their successor),  
as Trustees of the Ellsworth Revocable Living Trust dated May 22, 1984  
and any amendments thereto

By:   
Grant Ellsworth, Trustee

By:   
Fern Ellsworth, Trustee

## ATTACHMENTS

- A. Legal Description of the Master Plan.
- B. HUF Calculation Schedule.
- C. Form of Special Warranty Deed for Lift Station.
- D. Form of Easement for Maintenance, Ingress and Egress.
- E. Line Extension Agreement for On-Site Water Facilities.
- F. Line Extension Agreement for On-Site Wastewater Facilities.

**Attachment A**  
**Legal Description of Master Plan**

**PARCEL NO. 1:**

The West half of the Northeast quarter of the Northeast quarter of Section 33, Township 3 South, Range 9 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

**PARCEL NO. 2:**

The North half of the North half of the Southwest quarter and South half of the Northwest quarter of the Southwest quarter of Section 33, Township 3 South, Range 9 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

**PARCEL NO. 3:**

The East Half of the Northwest quarter of the Northeast quarter of Section 33, Township 3 South, Range 9 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

**PARCEL NO. 4:**

The West Half of the Northwest quarter of the Northeast quarter of Section 33, Township 3 South, Range 9 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

**PARCEL NO. 5:**

The East Half of the Northeast quarter of the Northwest quarter of Section 33, Township 3 South, Range 9 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

**PARCEL NO. 6:**

The West Half of the Northeast quarter of the Northwest quarter of Section 33, Township 3 South, Range 9 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

**PARCEL NO. 7:**

The Northeast quarter of the Northeast quarter of the Northeast quarter;

The Northeast quarter of the Southwest quarter of the Northwest quarter of Section 33, Township 3 South, Range 9 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;

EXCEPT all oil, gas and mineral rights as reserved in Docket 219, Page 354, records of Pinal County, Arizona.

PARCEL NO. 8:

The Northwest quarter of the Southeast quarter;

The West half of the Northeast quarter of the Southeast quarter of Section 33, Township 3 South, Range 9 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;

EXCEPT all oil, gas and mineral rights as reserved in Docket 219, Page 354, records of Pinal County, Arizona.

PARCEL NO. 9:

The Southeast quarter Northeast quarter of the Northeast quarter of Section 33, Township 3 South, Range 9 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

PARCEL NO. 10:

The South half of the North half of Section 33, Township 3 South, Range 9 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;

EXCEPT the Northeast quarter of the Southwest quarter of the Northwest quarter thereof.

PARCEL NO. 11:

The South half of the South half;

The South half of the Northeast quarter of the Southwest quarter;

The East half of the Northeast quarter of the Southeast quarter of Section 33, Township 3 South, Range 9 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;

EXCEPT therefrom the following described property as conveyed to the United States of America in Docket 1085, Page 158;

A parcel of land in the Southwest quarter of the Southwest quarter of Section 33, Township 3 South, Range 9 East of the Gila and Salt River Base and Meridian, being more particularly described as follows:

TRUE POINT OF BEGINNING at the Southwest corner of said Section 33;

THENCE from said point of beginning and along the West boundary of said Southwest quarter of the Southwest quarter, North 00 degrees 17 minutes 10 seconds West, 1000.30 feet;

THENCE leaving said West boundary South 48 degrees 25 minutes 42 seconds East, 1182.86 feet;

THENCE South 89 degrees 58 minutes 42 seconds East, 99.51 feet;

THENCE South 00 degrees 01 minutes 18 seconds West, 215.73 feet to a point in the South boundary of said Section 33 that bears North 89 degrees 58 minutes 42 seconds West, 1649.66 feet from the South quarter corner of said Section 33;

THENCE along said South boundary North 89 degrees 58 minutes 42 seconds West, 979.36 feet to the TRUE POINT OF BEGINNING.

PARCEL NO. 12:

The West half; and

The West half of the Southeast quarter of Section 34, Township 3 South, Range 9 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

PARCEL NO. 13:

The Northeast quarter; and

The East half of the Southeast quarter of Section 34, Township 3 South, Range 9 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;

EXCEPT all oil, gas and mineral rights as reserved in Docket 219, Page 354, records of Pinal County, Arizona.

PARCEL NO. 14:

All of Section 3, Township 4 South, Range 9 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.



**Attachment B**  
**HUF Calculation Schedule**

**Water Facility Hook-Up Fees**

<u>Meter Size</u>	<u>Fee</u>	<u>Number</u>	<u>Extended</u>
5/8" x 3/4"	\$750.00	-0-	-0-
3/4" Meter	\$900.00		
1" Meter	\$1,500.00		
1-1/2" Meter	\$3,000.00		
2" Meter	\$4,800.00		
3" Meter	\$9,000.00		
4" Meter	\$15,000.00		
6" or greater	\$30,000.00		
Total Hook-Up Fees		-0-	-0-

**Wastewater Facilities Hook-Up Fees**

<u>Service Lateral Size</u>	<u>Fee</u>	<u>Number</u>	<u>Extended</u>
4"	\$1,000.00	-0-	-0-
6"	\$2,000.00		
8" or greater	\$4,000.00		
Total Hook-Up Fees		-0-	-0-

**Attachment C**  
**Form of Special Warranty Deed for Lift Station and/or Well Site**

When recorded, return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SPECIAL WARRANTY DEED**

For consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ (pursuant to the respective interests set forth on Exhibit "A" attached hereto and incorporated herein by reference), collectively the Grantor, do hereby convey to Johnson Utilities, L.L.C., an Arizona limited liability company, the Grantee, all of its right, title and interest in and to the real property situated in Pinal County, Arizona and described on Exhibit "B" attached hereto and incorporated herein by reference (the "Property"), together with all rights and privileges appurtenant thereto;

Subject to: Current taxes and other assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions and restrictions, obligations, matters and liabilities as may appear of record, and all matters that an accurate ALTA survey or a physical inspection of the Property would reveal.

Grantor hereby binds itself and its successors to warrant the title as against the acts of Grantor and no others, subject to the matters above set forth.

DATED as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Grantor(s)**

[\_\_\_\_\_]

By: \_\_\_\_\_

Its: \_\_\_\_\_

State of Arizona            )  
  ) ss.  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ the \_\_\_\_\_ of \_\_\_\_\_, an \_\_\_\_\_, on behalf of said \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

Notary Seal:

**Attachment D**  
**Form of Easement for Maintenance, Ingress and Egress**

When recorded, return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**UNDERGROUND WATERLINE EASEMENT**

Grantors, for valuable consideration, do hereby grant to Johnson Utilities, LLC, an Arizona limited liability company, dba Johnson Utilities Company, its successors and assigns, a non-exclusive perpetual underground waterline easement to construct, operate and maintain underground waterline pipelines and related facilities on, over, under, across and through that certain real property generally located \_\_\_\_\_ and more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (hereafter the "Easement Area"), together with all non-exclusive rights of ingress and egress on, over, under, across and through the Easement Area.

In Witness Whereof, Grantors have caused this Underground Waterline Easement to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**GRANTORS**

\_\_\_\_\_  
\_\_\_\_\_

State of Arizona       )  
                                  )ss  
County of \_\_\_\_\_ )

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

Notary Seal:

**Attachment E**  
**Line Extension Agreement for On-Site Water Facilities**

**ON-SITE LINE EXTENSION AGREEMENT  
FOR  
DEVELOPER INSTALLED WATER FACILITIES**

**BETWEEN**

**JOHNSON UTILITIES, L.L.C.  
dba JOHNSON UTILITIES COMPANY**

**AND**

---

**FOR  
SKYVIEW FARMS  
PHASE \_\_\_\_, PARCEL \_\_\_\_  
PINAL COUNTY, ARIZONA**

**\_\_\_\_\_, 20\_\_**

## TABLE OF CONTENTS

I.	UTILITY PLANT ADDITIONS, COST, PAYMENT, HOOK-UP FEES, OTHER CHARGES, AND GROUNDWATER REPLENISHMENT DISTRICT .....
A.	<u>Water Utility Improvements</u> .....
B.	<u>Cost</u> .....
C.	<u>Payment</u> .....
D.	<u>Off-Site Facilities Hook-Up Fees</u> .....
E.	<u>Other Water Utility Charges</u> .....
F.	<u>Groundwater Replenishment District</u> .....
II.	SERVICE; COMPANY LIABILITY LIMITATIONS; APPLICABLE RATES .....
A.	<u>Service</u> .....
B.	<u>Company Liability Limitations</u> .....
C.	<u>Applicable Rates</u> .....
III.	PERMITS AND LICENSES; EASEMENTS; TITLE .....
A.	<u>Permits and Licenses</u> .....
B.	<u>Easements</u> .....
C.	<u>Title</u> .....
IV.	COMMENCEMENT OF PERFORMANCE AND TIME OF COMPLETION; PLANS AND SPECIFICATIONS; WORKMANSHIP, MATERIALS, EQUIPMENT AND MACHINERY; CONNECTING NEW FACILITIES; EXISTING UNDERGROUND FACILITIES RESPONSIBILITIES .....
A.	<u>Commencement of Performance and Time of Completion</u> .....
B.	<u>Plans and Specifications</u> .....
C.	<u>Materials, Workmanship, Equipment and Machinery</u> .....
D.	<u>Connecting New Facilities</u> .....
E.	<u>Existing Underground Facilities Responsibility</u> .....
F.	<u>Additional Terms and Conditions</u> .....
V.	INSPECTION, TESTING AND CORRECTION OF DEFECTS .....
VI.	INVOICES; LIENS; "AS-BUILT" PLANS .....

- A. Invoices .....
- B. Liens .....
- C. "As-Built" Plans .....

VII. AMOUNT OF ADVANCE; REFUND; TRANSFER .....

- A. Amount of Advance .....
- B. Time of Payment .....
- C. Income Taxes .....
- D. Computation of Refund .....
- E. Maximum Refund; Interest on Advance;  
Limitation on Revenues .....
- F. Transfer of Facilities .....
- G. Company's Right of First Refusal .....

VIII. RISK; LIABILITY; INSURANCE .....

- A. Risk .....
- B. Liability .....
- C. Insurance .....

IX. MISCELLANEOUS .....

**ON-SITE LINE EXTENSION AGREEMENT  
FOR DEVELOPER INSTALLED WATER FACILITIES**

THIS ON-SITE LINE EXTENSION AGREEMENT, entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ , by and between JOHNSON UTILITIES, L.L.C. dba JOHNSON UTILITIES COMPANY (hereinafter referred to as the "Company") and \_\_\_\_\_ (hereinafter referred to as the "Developer"), is for the construction of utility infrastructure necessary to provide water utility service to Parcel \_\_\_\_ of Skyview Farms Phase \_\_\_\_\_, a subdivision in Pinal County, Arizona as shown on **Attachment 1** (hereinafter called the "Development").

**WITNESSETH:**

WHEREAS, Company represents and warrants to Developer that it owns and operates a public service corporation and holds a Certificate of Convenience and Necessity and other permits and governmental approvals required authorizing it to serve the public with water service at the Development; and

WHEREAS, Developer is developing the Development within the certificated area of the Company, which Development is more fully described in **Attachment 1** hereto and incorporated herein by reference for all purposes; and

WHEREAS, the Company and Developer have entered into a Master Utility Agreement dated \_\_\_\_\_, pertaining to the advance of certain Off-Site Facilities Hook-Up Fees; and

WHEREAS, the Company currently owns and operates a fully functional and permitted water production, treatment and distribution facility sufficient to serve the Development; and

WHEREAS, the Company does not presently have water distribution lines sufficient to serve the Development; and

WHEREAS, under such circumstances the Arizona Corporation Commission's ("Commission") Rules and Regulations permit the Company to require an Advance In Aid of Construction to provide such facilities; and

WHEREAS, unless otherwise provided in this Agreement, the defined terms herein shall have the same meaning as set forth in the Commission Rules and Regulations.

NOW, THEREFORE, it is mutually covenanted and agreed by and between the parties hereto as follows:

**I. WATER UTILITY IMPROVEMENTS; COST; PAYMENT; HOOK-UP FEES ASSESSMENT AND REFUND; OTHER CHARGES; AND GROUNDWATER REPLENISHMENT DISTRICT**

**A. Water Utility Improvements.** The Developer will construct, or cause to be constructed, the Water Utility Improvements described on the plans on **Attachment 2**, the cost of



which is estimated on **Attachment 3**. For any subsequent phase of the Development, the Company and the Developer shall enter into a separate agreement in substantially the same form as this agreement.

**B. Cost.** The cost of construction of the Water Utility Improvements as more fully detailed in **Attachment 3**, attached hereto and incorporated herein by reference for all purposes, is estimated to be \$ \_\_\_\_\_. The Construction Cost Advance shall be adjusted to the amount of the invoices provided to the Company as required in Articles III and VI. The Total Advance shall include applicable Off-Site Facilities Hook-Up Fees and Groundwater Replenishment District charges, as hereinafter defined, and applicable income taxes.

**C. Payment.** Developer shall convey the facilities constructed under this Agreement pursuant to Articles III and VI. The payment of funds for the On-Site facilities under this Agreement shall be deemed paid upon presentation of the documents pursuant to Article VI. Developer further agrees to pay to the Company, at the close of escrow of each parcel sold to an entity not under common control with Developer, the applicable Off-Site Facilities Hook-Up Fees (to the extent not already paid pursuant to the Master Utility Agreement), the Groundwater Replenishment District charges and income taxes, if any, as set forth in **Attachment 3** hereto.

**D. Off-Site Hook-Up Fees.** In addition to all other costs and Gross-Up Taxes associated with the Development, if any, the Developer may be required to advance or contribute as applicable, all Off-Site Facilities Hook-Up Fees (the "Hook-Up Fees") as authorized by the Company's Tariffs and as set forth on **Attachment 3**. The Base Fee portion of the Hook-Up Fee is a non-refundable contribution. Any Gross-Up Tax associated with the Hook-Up Fee is refundable to the extent the funds collected are in excess of the taxes paid on the Advance at the close of the tax year when tax returns are completed. The Hook-Up Fees are applicable to Developments subject to the Company's Tariff. Payment of the Off-Site Facilities Hook-Up Fee shall be paid pursuant to the Master Utility Agreement between the parties and prior to commencement of construction of the water facilities to be installed by Developer pursuant to the line extension agreement.

**E. Other Water Utility Charges.** In the event the Developer or a Builder require construction water for grading, site preparation, road work, dust control or any other construction related purpose, the Developer or Builder shall contact the Company and request, and the Company shall supply, Construction Water Service pursuant to the Company's Tariff.

At the time the Developer, Builder, or a lot owner requests that a water meter be set at a specific lot line, the party requesting that service shall pay to the Company all Service Line Tariff and Water Advances Charges as authorized by the Company's Tariff.

**F. Groundwater Replenishment District.** In the event the Developer enrolls, or applies to enroll, the property within the Development as "membership land" in the Central Arizona Groundwater Replenishment District (the "GRD") pursuant to ARS § 48-4401 et seq., or the property in any way becomes subject to that law as it may be amended, then and in that event the Developer shall pay, in addition to all other terms, conditions, rates and charges set forth in this Agreement, a one-time charge of \$ \_\_\_\_\_ per phase to the Company for the establishment of the reporting procedure mandated by the GRD. For all Lots within the Development that become subject to the GRD, the Developer shall provide to the Company the following information for each

parcel to be served under this Agreement: (i) the legal description of each Lot; (ii) the tax parcel number as assigned to that Lot by the applicable taxing authority as and when available; (iii) the street address of each Lot; and (iv) any other information necessary for the Company to comply with the requirement of the GRD. Said information for all Lots and parcels within the Development shall be provided to the Company prior to the Company's obligation to serve water to any Lot or parcel within the Development. If not previously paid, payment of the fee shall be at the time of the close of escrow of each parcel sold to an entity not under common control with Developer.

## **II. SERVICE; COMPANY LIABILITY LIMITATIONS; APPLICABLE RATES**

A. **Service.** Notwithstanding any reference to fire protection facilities contained in Attachment 2 or Attachment 3 hereto, the subject Water Utility Improvements are being installed primarily for the purpose of providing domestic water service to the Development. However, under certain operating conditions, those facilities may provide limited fire protection service to an appropriate fire protection agency contracting with the Company for such service. Service will be provided in accordance with good utility practice.

B. **Company Liability.** Company's obligation for service shall be as set by the stricter of AAC R14-2-407(C) and (D), the controlling Master Utility Agreement, or this Agreement. Company shall comply with such regulations and any other applicable law.

C. **Applicable Rates.** It is mutually understood and agreed that the charges for water services to said Development shall be at the applicable rates of the Company which are currently on file with the Arizona Corporation Commission. Those rates are subject to change from time to time upon application of the Company and as approved by the Commission.

## **III. PERMITS AND LICENSES; EASEMENTS; TITLE**

A. **Permits and Licenses.** Developer agrees to obtain at its sole expense all licenses, permits, certificates and approvals from public authorities which may be required for the construction of the Improvements on the Development under this Agreement or development of the subject Development and to comply with all municipal and other public laws, ordinances and requirements in regard to the same. The cost of obtaining such licenses, permits, certificates and approvals shall be added to the amount of the refundable Advance In Aid Of Construction. The Company shall be responsible for obtaining at its sole expense all licenses, permits, certificates and approvals from public authorities which may be required for the installation and operation of the Off-Site water treatment and supply facilities that will serve the Development and into which the Developer constructed facilities will be intertied and connected. The Company shall be responsible for the construction and operation at its cost of all other water production, treatment and distribution facilities necessary to serve the Development.

B. **Easements.** Prior to the commencement of construction, Developer shall dedicate on the Development upon which the subject facilities will be constructed, a perpetual easement for the construction, operation and maintenance of water lines, mains and appurtenant facilities, in the name of the Company, and in a form acceptable to the Company, or a public utilities easement for such purposes as approved by Pinal County.

C. **Title.** All materials installed, facilities constructed and equipment provided by Developer in connection with construction of facilities under this Agreement and the completed facilities as installed for which an Approval of Construction has been issued by ADEQ, and which facilities the Company has provided written acceptance thereof, shall become the sole property of the Company, and full legal and equitable title thereto shall be then vested in the Company, free and clear of any liens, without the requirement of any written document of transfer to the Company or acceptance by the Company. Developer agrees to execute or cause to be executed promptly such documents as counsel for the Company may request to evidence good and merchantable title to said facilities free and clear of all liens. The Company shall confirm in writing the acceptance of title to the facilities.

#### IV. COMMENCEMENT OF PERFORMANCE AND TIME OF COMPLETION; PLANS AND SPECIFICATIONS; WORKMANSHIP, MATERIALS, EQUIPMENT AND MACHINERY; CONNECTING NEW FACILITIES; EXISTING UNDERGROUND FACILITIES RESPONSIBILITIES

A. **Commencement of Performance and Time of Completion.** It is estimated that the Developer started the construction work to be performed under this Agreement in approximately \_\_\_\_\_ 20\_\_ and completed the construction work to be performed under this Agreement in approximately \_\_\_\_\_ 20\_\_. Failure to meet those estimated dates shall in no way relieve the Developer or Company of any of their obligations under this Agreement.

B. **Plans and Specifications.** All plans, specifications and construction shall be in accordance with good utility practices and in accordance with all rules, regulations and requirements of regulatory agencies having jurisdiction over water service and facilities. All of said plans and specifications shall have all requisite approvals in writing of all necessary agencies and the approval in writing of Company before construction is commenced. The Company's review, revisions and approval shall be within twenty (20) days. Plans and specifications as approved by Company for water facilities to be constructed hereunder will be incorporated herein by reference and made part of this Agreement when so approved.

C. **Materials, Workmanship, Equipment and Machinery.** All materials shall be new and both workmanship and materials shall be of good quality, which meet the specifications and standards of the American Water Works Association Standards, the Arizona Corporation Commission, ADEQ, the Arizona Department of Health Services and all local regulatory agencies. Developer shall assign to the Company the warranties of its contractor(s) for the facilities to be built pursuant to this agreement or, if the Developer constructs the facilities itself, Developer agrees to pay all costs for removing and replacing any defective part or parts upon the Company providing written notice to the Developer within one year after such facilities being placed in regular operation.

D. **Connecting New Facilities.** The facilities constructed pursuant to the Agreement shall not be connected to the Company's existing facilities, or operated, without the prior written approval of Company, which approval shall not be unreasonably withheld.

E. **Existing Underground Facilities Responsibility.** Developer shall be responsible for complying with A.R.S. 40-360.21, et seq., and related local regulations, and will assume all costs and liabilities associated with (1) coordination with the owners or agents of all underground

facilities within and adjacent to the Development regarding the location of such facilities, and (2) construction near, or damage to, such underground facilities. Developer will conduct, or cause to be conducted, all excavation in a careful and prudent manner in its construction of all facilities subject to this Agreement.

## **V. INSPECTION, TESTING AND CORRECTION OF DEFECTS**

Developer shall comply with the inspection and testing requirements of the Company for the facilities to be constructed hereunder; said requirements shall be reasonable and shall not cause Developer unwarranted delays in the ordinary course of construction. Developer shall promptly notify the Company when facilities under construction are ready for inspection and testing, and the Company shall inspect promptly after being so notified. The Company agrees to conduct any "open trench" inspection within twenty-four (24) hours of the inspection date designated by Developer, provided Developer gives the Company at least three working days advance written notice of the inspection date, and the condition will be deemed automatically approved by Company if it fails to inspect the condition within such twenty-four (24) hour period, provided the Company received such three working days advance written notice. If not inspected and approved by the Company, Developer shall provide within ten (10) working days its Engineer's Certificate of Approval that said facilities were installed in accordance with the approved plans and specifications.

For the purpose of inspection and testing of everything covered by this Agreement, or the work thereon, Developer shall give the Company and any inspectors appointed by it, free access to the working places and furnish every facility for properly inspecting such materials and work and shall furnish them with full information whenever requested as to the progress of the work on its various parts. The approval of work by any such inspector shall not relieve Developer from its obligation to comply in all respects with the instructions and specifications to make the work a finished job of its kind, completed in accordance with the plans and specification approved by the Company and are satisfactory to the Company upon inspection and testing. Developer agrees that no inspection by or on behalf of the Company shall relieve Developer from its obligation to do and complete the work in accordance with this Agreement. If at any time before the final completion and acceptance of the work any part of the work is found to be defective or deficient in any way, or in any way fails to conform to this Agreement, the Company is hereby expressly authorized to reject or revoke acceptance of such defective or deficient work and require Developer to do over and make good on such defective work. No costs incurred by Developer to do over or make good on defective or deficient work shall be included in the Amount of Advance pursuant to Paragraph VIIA. The Company specifically reserves the right to withhold approval and to forbid connection of the facilities constructed pursuant to this Agreement to the Company's system unless such facilities have been constructed in accordance with the plans and specifications as approved by the Company and are satisfactory to the Company upon inspection and testing. Developer agrees that it will promptly correct all defects and deficiencies in construction, materials and workmanship upon request by the Company made subsequent to inspection by the Company.

## **VI. INVOICES; LIENS; "AS-BUILT" PLANS**

**A. Invoices.** Developer agrees to furnish Company, within thirty (30) days after completion of construction, copies of Developer's, subcontractors', vendors' and all others' invoices for all engineering, surveying, and other services, materials installed, construction performed,

equipment provided, materials purchased and all else done for construction pursuant to this Agreement at the actual cost thereof.

**B. Liens.** Developer acknowledges its duty to obtain lien waivers from all providing labor, materials or services hereunder. Developer hereby irrevocably waives any rights it may now have or which it may acquire during the course of this Agreement to record liens against the Company or its property. Developer shall also pay, satisfy and discharge, or bond over all mechanics', materialmen's and other liens, and all claims, obligations and liabilities which may be asserted against the Company or its property by reason of the Developer's construction of the Improvements to be constructed pursuant to this agreement.

**C. "As-Built" Plans.** Developer agrees to furnish the Company, within forty-five (45) days after completion of construction, "as-built" drawings showing the locations of all water mains, hydrants, valves, and service connections to all structures served from facilities which are constructed pursuant to this Agreement. The drawings shall be certified by the Developer's engineer of record and shall be provided on reproducible milar prints, and in a digital format (i.e. AutoCad, MicroStation or .dxf format or as otherwise specified by the Company), all available data for the Development, including ALTA surveys, topographical, aerials, tentative plats, engineering plans, and final plats.

## **VII. AMOUNT OF ADVANCE; INCOME TAX; REFUND; TRANSFER**

**A. Amount of Advance.** Based on the estimated cost contained in Paragraph I.B, and subject to receiving invoices pursuant to Paragraph VI.A, totaling at least the estimated cost and the income tax payable under Paragraph I.D, the Advance by the Developer shall be a total of \$ \_\_\_\_\_. Of the Total Advance, \$ \_\_\_\_\_ shall be refundable pursuant to this Paragraph VII. If the actual construction cost is less than the estimated Advance, the Advance shall be the lesser amount, to the extent supported by invoices provided pursuant to Paragraph VI.A. If the actual cost is more than the estimated Advance, the Advance shall be the greater amount, to the extent supported by invoices provided pursuant to Paragraph VI.A. If funds were advanced by the Developer for the construction by the Company, advances in excess of the actual construction, as well as advanced funds in excess of actual administration, engineering and legal costs, will be refunded to the Developer within thirty (30) days of completion and acceptance of the construction.

**B. Time of Payment.** The payment of the funds under this Agreement shall be as follows:

1. At the close of escrow of each parcel sold to an entity not under common control with Developer, Developer shall advance the Groundwater Replenishment District Fee, and the Administrative, Engineering and Legal costs as set forth in **Attachment 3**. This Advance totals \$ \_\_\_\_\_.
2. Upon completion of the construction to be performed by the Developer, Developer shall provide the documentation required by Paragraphs III, IV, V, and VI of this Agreement.

C. **Income Taxes.** In the event it is determined by Congress, the Internal Revenue Service, the Arizona Legislature or the Arizona Department of Revenue that all or a portion of the cost estimates in **Attachment 3** is taxable income to the Company as of the date of this Agreement, or upon receipt of said costs or facilities by the Company, the Developer will advance funds equal to the applicable income taxes for the Company's state and federal tax liability on all funds advanced pursuant to this Agreement. These funds shall be payable by the Developer to the Company immediately upon notification to the Developer of the determination by the appropriate agency having jurisdiction. At the time the refunds are made pursuant to Paragraph VII.D, the Company shall also refund that portion of the income taxes associated with that refund that were advanced under this Paragraph VII.C. The income tax advance refunds shall be based on the annual refund amount under Paragraph V.D, and computed at the same rate the advance was originally assessed.

D. **Computation of Refund.** Refunds of the Advance In Aid of Construction shall be made by the Company on or before the 31st day of August of each year commencing with \_\_\_\_\_ of 20\_\_\_\_, covering any refunds owing from water revenues received during the preceding \_\_\_\_\_ to \_\_\_\_\_ period. Any additional charge made by the Company based on any sales, privilege tax, excise tax, or regulatory assessment, shall not be included in the computation. The annual refund shall equal five percent (5%) of the total gross annual revenue from water sales to each bona fide customer in the Development until the refundable advance has been fully refunded.

E. **Maximum Refund; Interest on Advance; Limitation on Revenues.** The refund to the Developer under this Agreement shall in no event exceed the amount of the Advance, as adjusted. No interest shall be paid by the Company on any amounts advanced. The Company shall make no refunds from any revenue received from properties other than those located within the phase of the Development covered by this Agreement and contained within the area identified in Attachment 1 to this Agreement.

F. **Transfer of Facilities.** In the event of the sale, conveyance or transfer by the Company, pursuant to the approval of the Arizona Corporation Commission, of any portion of its water system, including the facilities serving the Development and installed pursuant to the terms of this Agreement, the Company's obligation under Paragraph VII.D hereto shall cease (except as to any payment which is then due) conditioned upon the transferee assuming, and agreeing to pay the Developer, any sums becoming payable to Developer thereafter in accordance with the provisions of Paragraph VII.D of this Agreement.

G. **Company's Right of First Refusal.** Before selling or transferring the obligation of the Company under this Agreement to refund the Advance, Developer shall first give the Company, or its assigns, reasonable opportunity to purchase the same at the same price and upon the same terms as contained in any bona fide offer which Developer has received from any third person or persons which he may desire to accept. This provision shall not apply to Developer's assigning or pledging the Agreement in connection with any lender's requirements. Upon assignment, the Company shall make any refunds under the Agreement to the assignee.

## VIII. RISK; LIABILITY; INSURANCE

A. **Risk.** Developer shall carry on all work required hereunder at its own risk until the same is fully completed and accepted by the Company and will, in case of accident, destruction or injury to the work or material before such final completion and acceptance, replace or repair forthwith the work of materials so injured, damaged or destroyed, in accordance with the original approved plans and specifications and to the satisfaction of the Company and at Developer's own expense.

B. **Liability.** Developer hereby assumes the responsibility and liability for injury or death of any person, or loss for damage to any property occurring during the construction of the facilities provided for in this Agreement to the extent contributed to or caused by the active or passive negligence of Developer, its agents, servants, employees, or subcontractors. Accordingly, DEVELOPER WILL INDEMNIFY AND HOLD HARMLESS the Company, its officers, directors, engineers, agents and employees from and against such claims or expenses, including penalties and assessments, to which they or any of them may be subjected by reason of such injury, death, loss, claim, penalty, assessment or damage, and in case any suit or other proceeding shall be brought on account thereof, Developer will assume the defense at Developer's own expense and will pay all judgments rendered to the extent Developer is responsible.

C. **Insurance.** Developer agrees to produce and maintain all insurances described below, including insurance covering the obligations assumed by Developer under Paragraph VIII.A and Paragraph VIII.B hereof. Certificates of issuance shall be provided to the Company before the commencement of actual construction.

1. Workmens' compensation in the benefit amounts, and occupational disease disability insurance, as required by the laws and regulations of the state.
2. Comprehensive general liability insurance, with minimum combined single limits of \$1,000,000.00, and including operations and protective liability coverages. When the work to be performed requires blasting, Developer's insurance shall specifically cover that risk.
3. Comprehensive automobile liability insurance with minimum combined single limits of \$1,000,000.00, and covering all owned and non-owned automobiles or trucks used by or on behalf of Developer, in connection with the work.

## IX. MISCELLANEOUS

Before this Agreement shall become effective and binding upon either the Company or the Developer, it must be approved by the Arizona Corporation Commission or its authorized representative. In the event that it is not so approved this Agreement shall be null and void and of no force or effect whatsoever. This Agreement may not be modified or amended except by a writing signed by both parties. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and expressly supersedes and revokes all other prior or contemporaneous promises, representations and assurances of any

nature whatsoever with respect to the subject matter hereof. The remedies provided in this Agreement in favor of the Company shall not be deemed its exclusive remedies but shall be in addition to all other remedies available at law or in equity. No waiver by either party of any breach of this agreement nor any failure by either party to insist on strict performance by the other party of any provision of this agreement shall in any way be construed to be a waiver of any future or subsequent breach by such defaulting party or bar the non-defaulting party's right to insist on strict performance by the defaulting party of the provisions of this agreement in the future. Developer is an independent contractor and not an agent or employee of the Company. This Agreement shall inure to the benefit of, be binding upon, and be enforceable by the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

**COMPANY**

JOHNSON UTILITIES, L.L.C.

By: \_\_\_\_\_

Its: \_\_\_\_\_

**DEVELOPER**

[\_\_\_\_\_]

By: \_\_\_\_\_

Its: \_\_\_\_\_



**ATTACHMENT 1**

**MAP AND LEGAL DESCRIPTION OF DEVELOPMENT**

**ATTACHMENT 2**  
**WATER UTILITY IMPROVEMENTS**

**ATTACHMENT 3**  
**ESTIMATED ON-SITE AND OFF-SITE FACILITIES**  
**AND ESTIMATED COSTS FOR**  
**DOMESTIC AND FIRE PROTECTION SERVICES**

<u>Description Phase ____ , Parcel ____</u>	<u>Quantity</u>	<u>Unit</u>	<u>Refundable</u>	<u>Non-Refundable</u>	<u>TOTAL</u>
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Subtotal

Allocation of Off-Site Water Facilities for  
Parcel \_\_\_\_

Subtotal

Engineer, Company Supervision and Legal Fees  
Off-Site Facilities Hook-Up Fee<sup>1</sup>  
Groundwater Replenishment District Fee (\$1,000 / 4 parcels)  
TOTAL ADVANCE/CONTRIBUTION

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<sup>1</sup> These fees are the subject of a separate agreement between the parties.

### ATTACHMENT 3 WORKSHEET

#### OFF-SITE WATER FACILITIES HOOK-UP FEES<sup>2</sup>

Meter Size

Fee

Number

Extended

Total Hook-up Fees

---

<sup>2</sup> Developer has executed a separate Master Utility Agreement for payment of these fees.

**Attachment F**  
**Line Extension Agreement for On-Site Wastewater Facilities**

**ON-SITE LINE EXTENSION AGREEMENT**  
**FOR**  
**DEVELOPER INSTALLED WASTEWATER FACILITIES**

**BETWEEN**

**JOHNSON UTILITIES, L.L.C.**  
**dba JOHNSON UTILITIES COMPANY**

**AND**

---

**FOR**  
**SKYVIEW FARMS**  
**PHASE \_\_\_\_\_, PARCEL \_\_\_\_\_**  
**PINAL COUNTY, ARIZONA**

\_\_\_\_\_, 200\_\_

## TABLE OF CONTENTS

I.	UTILITY PLANT ADDITIONS, COST PAYMENT, HOOK-UP FEES, AND OTHER CHARGES.....
A.	<u>Wastewater Utility Improvements</u> .....
B.	<u>Cost</u> .....
C.	<u>Payment</u> .....
D.	<u>Hook-Up Fees</u> .....
E.	<u>Other Wastewater Utility Charges</u> .....
II.	SERVICE; COMPANY LIABILITY LIMITATIONS; APPLICABLE RATES.....
A.	<u>Service</u> .....
B.	<u>Company Liability Limitations</u> .....
C.	<u>Applicable Rates</u> .....
III.	PERMITS AND LICENSES; EASEMENTS; TITLE.....
A.	<u>Permits and Licenses</u> .....
B.	<u>Easements</u> .....
C.	<u>Title</u> .....
IV.	COMMENCEMENT OF PERFORMANCE AND TIME OF COMPLETION; PLANS AND SPECIFICATIONS; WORKMANSHIP, MATERIALS, EQUIPMENT AND MACHINERY; CONNECTING NEW FACILITIES; EXISTING UNDERGROUND FACILITIES RESPONSIBILITIES .....
A.	<u>Commencement of Performance and Time of Completion</u> .....
B.	<u>Plans and Specifications</u> .....
C.	<u>Materials, Workmanship, Equipment and Machinery</u> .....
D.	<u>Connecting New Facilities</u> .....
E.	<u>Existing Underground Facilities Responsibility</u> .....
F.	<u>Additional Terms and Conditions</u> .....
V.	INSPECTION, TESTING AND CORRECTION OF DEFECTS.....
VI.	INVOICES; LIENS; "AS-BUILT" PLANS.....

- A. Invoices .....
- B. Liens .....
- C. "As-Built" Plans .....

VII. AMOUNT OF ADVANCE; REFUND; TRANSFER .....

- A. Amount of Advance .....
- B. Time of Payment .....
- C. Income Taxes .....
- D. Computation of Refund .....
- E. Maximum Refund; Interest on Advance;  
Limitation on Revenues .....
- F. Transfer of Facilities .....
- G. Company's Right of First Refusal .....

VIII. RISK; LIABILITY; INSURANCE .....

- A. Risk .....
- B. Liability .....
- C. Insurance .....

IX. MISCELLANEOUS .....



**ON-SITE LINE EXTENSION AGREEMENT  
FOR DEVELOPER INSTALLED WASTEWATER FACILITIES**

THIS LINE EXTENSION AGREEMENT, entered into this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between JOHNSON UTILITIES, L.L.C. dba JOHNSON UTILITIES COMPANY (hereinafter referred to as the "Company") and \_\_\_\_\_ (hereinafter referred to as the "Developer"), is for the construction of utility infrastructure necessary to provide wastewater utility service to Parcel \_\_\_\_\_ of Skyview Farms Phase \_\_\_\_\_, a subdivision in Pinal County, Arizona as identified on **Attachment 1** (hereinafter called the "Development").

**WITNESSETH:**

WHEREAS, Company owns and operates a public service corporation and holds a Certificate of Convenience and Necessity and represents to Developer that it has permits and governmental approvals required to authorize it to serve the public with wastewater service at the Development; and

WHEREAS, Developer is developing property within the certificated area of the Company, which Development is more fully described in **Attachment 1** hereto and incorporated herein by reference for all purposes; and

WHEREAS, the Company and Developer have entered into a Master Utility Agreement dated \_\_\_\_\_, pertaining to the advance of certain Off-Site Facilities Hook-Up Fees; and

WHEREAS, the Company currently owns and operates a permitted wastewater treatment facility or will build such facilities sufficient to serve the Development; and

WHEREAS, the Company does not presently have wastewater collection lines sufficient to serve the Development; and

WHEREAS, under such circumstances the Arizona Corporation Commission's ("Commission") Rules and Regulations permit the Company to require an Advance In Aid Of Construction to provide such facilities; and

WHEREAS, unless otherwise provided in this Agreement, the defined terms herein shall have the same meaning as set forth in the Commission Rules and Regulations.

NOW, THEREFORE, it is mutually covenanted and agreed by and between the parties hereto as follows:

**I. WASTEWATER UTILITY IMPROVEMENTS; COST; PAYMENT; HOOK-UP FEES; AND OTHER CHARGES**

**A. Wastewater Utility Improvements.** The Developer will construct, or cause to be constructed, the Wastewater Utility Improvements described on the plans on **Attachment 2**, the

cost of which is estimated in **Attachment 3**. For any subsequent phase of the Development, the Company and the Developer shall enter into a separate agreement in substantially the same form as this agreement.

**B. Cost.** The cost of construction of the Wastewater Utility Improvements as more fully detailed in **Attachment 3** attached hereto and incorporated herein by reference for all purposes, is estimated to be \$ \_\_\_\_\_. The Construction Cost Advance shall be adjusted to the amount of the invoices provided to the Company as required in Articles III and VI herein. The Total Advance shall include applicable Off-Site Facilities Hook-Up Fees as hereinafter defined, and applicable income taxes.

**C. Payment.** Developer shall convey the facilities constructed under this Agreement pursuant to Articles III and VI. The payment of funds for the On-Site facilities under this Agreement shall be deemed paid upon presentation of the documents pursuant to Article VI. Developer further agrees to pay to the Company, at the close of escrow of each parcel sold to an entity not under common control with Developer, the applicable Off-Site Facilities Hook-Up Fees (to the extent not already paid pursuant to the Master Utility Agreement), the Groundwater Replenishment District charges and income taxes, if any, as set forth in **Attachment 3** hereto.

**D. Hook-Up Fees.** In addition to all other costs and Gross-Up Taxes associated with the Development, if any, the Developer may be required to advance or contribute as applicable, all Off-Site Facilities Hook-Up Fees (the "Hook-Up Fees") as authorized by the Company's Tariffs and as set forth on **Attachment 3**. The Base Fee portion of the Hook-Up Fee is a non-refundable contribution. Any Gross-Up Tax associated with the Hook-Up Fee is refundable to the extent the funds collected are in excess of the taxes paid on the Advance at the close of the tax year when tax returns are completed. The Hook-Up Fees are applicable to Developments subject to the Company's Tariff. Payment of the Off-Site Facilities Hook-Up Fee shall be paid pursuant to the Master Utility Agreement between the parties and prior to commencement of construction of the wastewater facilities to be installed by the Developer pursuant to this Agreement.

**E. Other Wastewater Utility Charges.** At the time the Developer, Builder or a lot owner requests that a water meter be set at a specific lot line, the party requesting that service will also be required to initiate wastewater service and shall be responsible for paying to the Company Service Line Connection Charges as authorized by the Company's Tariff.

## **II. SERVICE; COMPANY LIABILITY; APPLICABLE RATES**

**A. Service.** The subject Wastewater Utility Improvements are being installed for the purpose of providing domestic wastewater service to the Development consistent with the Company's Rules and Regulations. Service will be provided in accordance with good utility practice.

**B. Company Liability.** Company's obligation for service shall be as set by the stricter of AAC R14-2-607(C) and (D), the controlling Master Utility Agreement, or this Agreement. Company shall comply with such regulations and any other applicable law.

C. **Applicable Rates.** It is mutually understood and agreed that the charges for wastewater services to said Development shall be at the applicable rates of the Company which are currently on file with the Arizona Corporation Commission. Those rates are subject to change from time to time upon application of the Company and as approved by the Commission.

### **III. PERMITS AND LICENSES; EASEMENTS; TITLE**

A. **Permits and Licenses.** Developer agrees to obtain at its own expense all licenses, permits, certificates and approvals from public authorities which may be required for the construction of facilities under this Agreement or development of the subject Development and to comply with all municipal and other public laws, ordinances and requirements in regard to the same. The cost of obtaining such licenses, permits, certificates and approvals shall be added to the amount of the refundable Advance In Aid Of Construction. The Company shall be responsible for obtaining at its own expense all licenses, permits, certificates and approvals from public authorities which may be required for the installation and operation of the Off-Site wastewater treatment and collection facilities that will serve the Development and into which the Developer constructed facilities shall intertie and connect. The Company shall be responsible for the construction and operation at its cost of all other wastewater treatment and collection facilities necessary to serve the Development.

B. **Easements.** Prior to the commencement of construction, Developer shall dedicate within the Development upon which the facilities to be constructed pursuant to this agreement will be installed, a perpetual easement for the construction, operation and maintenance of wastewater lines, mains and appurtenant facilities, in the name of the Company, and in a form acceptable to the Company, or a public utilities easement for such purposes as approved by Pinal County.

C. **Title.** All materials installed, facilities constructed and equipment provided by Developer in connection with construction of facilities under this Agreement and the completed facilities as installed for which an Approval of Construction has been issued by ADEQ, and which facilities the Company has provided written acceptance, shall become the sole property of the Company, and full legal and equitable title thereto shall be then vested in the Company, free and clear of any liens, without the requirement of any written document of transfer to the Company or acceptance by the Company. Developer agrees to execute or cause to be executed promptly such documents as counsel for the Company may request to evidence good and merchantable title to said facilities free and clear of all liens. The Company shall confirm in writing the acceptance of title to the facilities.

### **IV. COMMENCEMENT OF PERFORMANCE AND TIME OF COMPLETION; PLANS AND SPECIFICATIONS; WORKMANSHIP, MATERIALS, EQUIPMENT AND MACHINERY; CONNECTING NEW FACILITIES; EXISTING UNDERGROUND FACILITIES RESPONSIBILITIES**

A. **Commencement of Performance and Time of Completion.** It is estimated that the Developer will start the construction work to be performed under this Agreement in approximately \_\_\_\_\_, 20\_\_ and will complete the construction work to be performed under this Agreement in approximately \_\_\_\_\_, 20\_\_. Failure to meet those estimated dates shall in no way relieve the Developer or Company of any of their obligations under this Agreement.

**B. Plans and Specifications.** All plans, specifications and construction shall be in accordance with good utility practices and in accordance with all rules, regulations and requirements of regulatory agencies having jurisdiction over wastewater service and facilities. All of said plans and specifications shall have all requisite approvals in writing of all necessary agencies and the approval in writing of Company before construction is commenced. The Company's review, revisions and approval shall be provided within twenty (20) days. Plans and specifications as approved by the Company for wastewater facilities to be constructed hereunder will be incorporated herein by reference and made part of this Agreement when so approved.

**C. Materials, Workmanship, Equipment and Machinery.** All materials shall be new and both workmanship and materials shall be of good quality, which meet the specifications and standards of the Arizona Corporation Commission, ADEQ, the Arizona Department of Health Services and all local regulatory agencies. Developer shall assign to the Company the warranties of its contractor for the facilities to be built pursuant to this agreement or, if the Developer constructs the facilities itself, Developer agrees to pay all costs for removing and replacing any defective part or parts upon the Company providing written notice to the Developer within one year after such facilities being placed in regular operation.

**D. Connecting New Facilities.** The facilities constructed pursuant to the Agreement shall not be connected to the Company's existing facilities without the prior written approval of Company, which approval shall not be unreasonably withheld. Nor shall said facilities be operated prior to connection to the Company's facilities. Any such operation may result in either rejection of the facilities by the Company, or extraordinary charges to the Developer to purge the subject facilities prior to acceptance.

**E. Existing Underground Facilities Responsibility.** Developer shall be responsible for complying with A.R.S. 40-360.21, et seq., and related local regulations, and will assume all costs and liabilities associated with (1) coordination with the owners or agents of all underground facilities within and adjacent to the Development regarding the location of such facilities, and (2) construction near, or damage to, such underground facilities. Developer will conduct, or cause to be conducted, all excavation in a careful and prudent manner in its construction of all facilities subject to this Agreement.

## **V. INSPECTION, TESTING AND CORRECTION OF DEFECTS**

Developer shall comply with the inspection and testing requirements of the Company for the facilities to be constructed hereunder; said requirements shall be reasonable and shall not cause Developer unwarranted delays in the ordinary course of construction. Developer shall promptly notify the Company when facilities under construction are ready for inspection and testing, and the Company shall inspect promptly after being so notified. The Company agrees to conduct any "open trench" inspection within twenty-four (24) hours of the inspection date designated by Developer, provided Developer gives the Company at least three (3) working days advance written notice of the inspection date, and the condition will be deemed automatically approved by Company if it fails to inspect the condition within such twenty-four (24) hour period, provided the Company received such three (3) working days advance written notice. If not inspected and approved by the Company, Developer shall provide within ten (10) working days its Engineer's Certificate of Approval that said facilities were installed in accordance with the approved plans and specifications.

For the purpose of inspection and testing of everything covered by this Agreement, or the work thereon, Developer shall give the Company and any inspectors appointed by it, free access to the working places and furnish every facility for properly inspecting such materials and work and shall furnish them with full information whenever requested as to the progress of the work on its various parts. The approval of work by any such inspector shall not relieve Developer from its obligation to comply in all respects with the instructions and specifications to make the work a finished job of its kind, completed in accordance with the plans and specifications approved by the Company and are satisfactory to the Company upon inspection and testing. Developer agrees that no inspection by or on behalf of the Company shall relieve Developer from its obligation to do and complete the work in accordance with this Agreement. If at any time before the final completion and acceptance of the work any part of the work is found to be defective or deficient in any way, or in any way fails to conform to this Agreement, the Company is hereby expressly authorized to reject or revoke acceptance of such defective or deficient work and require Developer to do over and make good on such defective work. No costs incurred by Developer to do over or make good on defective or deficient work shall be included in the Amount of Advance pursuant to Paragraph A. The Company specifically reserves the right to withhold approval and to forbid connection of the facilities constructed pursuant to this Agreement to the Company's system unless such facilities have been constructed in accordance with the plans and specifications as approved by the Company and are satisfactory to the Company upon inspection and testing. Developer agrees that it will promptly correct all defects and deficiencies in construction, materials and workmanship upon request by the Company made subsequent to inspection by the Company.

## **VI. INVOICES; LIENS; "AS-BUILT" PLANS**

A. **Invoices.** Developer agrees to furnish Company, within thirty (30) days after completion of construction, copies of Developer's, subcontractors', vendors' and all others' invoices for all engineering, surveying, and other services, materials installed, construction performed, equipment provided, materials purchased and all else done for construction pursuant to this Agreement at the actual cost thereof.

B. **Liens.** Developer acknowledges its duty to obtain lien waivers from all providing labor, materials or services hereunder. Developer hereby irrevocably waives any rights it may now have or which it may acquire during the course of this Agreement to record liens against the Company or its property. Developer shall also pay, satisfy and discharge, or bond over, all mechanics', materialmen's and other liens, and all claims, obligations and liabilities which may be asserted against the Company or its property by reason of the Developer's construction of the Improvements to be constructed pursuant to this Agreement.

C. **"As-Built" Plans.** Developer agrees to furnish the Company, within forty-five (45) days after completion of construction, "as-built" drawings showing the locations of all wastewater man holes, lift stations, mains, valves, and service connections to all structures served from facilities which are constructed pursuant to this Agreement. The drawings shall be certified by the Developer's engineer of record and shall be provided on reproducible milar prints, and in a digital format (i.e. AutoCad, MicroStation or .dxf format or as otherwise specified by the Company), all available data for the Development, including ALTA surveys, topographical, aerials, tentative plats, engineering plans, and final plats.

## VII. AMOUNT OF ADVANCE; INCOME TAX; REFUND; TRANSFER

A. **Amount of Advance.** Based on the estimated cost contained in Paragraph I.B., and subject to receiving invoices pursuant to Paragraph VI.A, totaling at least the estimated cost, the Advance by the Developer shall be a total of \$ \_\_\_\_\_. Of the Total Advance, \$ \_\_\_\_\_ shall be refundable pursuant to this Paragraph VII. If the actual construction cost is less than the estimated Advance, the Advance shall be the lesser amount, to the extent supported by invoices provided pursuant to Paragraph VI.A. If the actual construction cost is more than the estimated Advance, the Advance shall be the greater amount, to the extent supported by invoices provided pursuant to Paragraph VI.A. If funds were advanced by the Developer for the construction by the Company, advances in excess of the actual construction, as well as advanced funds in excess of actual administration, engineering and legal costs, will be refunded to the Developer within thirty (30) days of completion and acceptance of the construction.

B. **Time of Payment.** The payment of the funds under this Agreement shall be as follows:

1. At the close of escrow of each parcel sold to an entity not under common control with Developer, Developer shall advance the Administrative, Engineering and Legal costs as set forth in **Attachment 3**. This Advance totals \$ \_\_\_\_\_.
2. Upon completion of the construction to be performed by the Developer, Developer shall provide the documentation required by Paragraphs III, IV, V, and VI of this Agreement.

C. **Income Taxes.** In the event it is determined by Congress, the Internal Revenue Service, the Arizona Legislature or the Arizona Department of Revenue that all or a portion of the cost estimates in **Attachment 3** is taxable income to the Company as of the date of this Agreement, or upon receipt of said costs or facilities by the Company, the Developer will advance funds equal to the applicable income taxes for the Company's state and federal tax liability on all funds advanced pursuant to this Agreement. These funds shall be payable by the Developer to the Company immediately upon notification to the Developer of the determination by the appropriate agency having jurisdiction. At the time the refunds are made pursuant to Paragraph VII.D, the Company shall also refund that portion of the income taxes associated with that refund that were advanced under this Paragraph VII.C. The income tax advance refunds shall be based on the annual refund amount under Paragraph VII.D, and computed at the same rate the advance was originally assessed.

D. **Computation of Refund.** Refunds of the Advance In Aid of Construction shall be made by the Company on or before the \_\_\_\_\_ day of \_\_\_\_\_ of each year commencing with \_\_\_\_\_ of 20\_\_\_\_, covering any refunds owing from wastewater revenues received during the preceding \_\_\_\_\_ to \_\_\_\_\_ period. Any additional charge made by the Company based on any sales, privilege tax, excise tax, or regulatory assessment, shall not be included in the computation. The annual refund shall equal five percent (5%) of the total gross annual revenue from wastewater sales to each bona fide customer in the Development until the refundable advance is fully refunded.

E. **Maximum Refund; Interest on Advance; Limitation on Revenues.** The refund to the Developer under this Agreement shall in no event exceed the amount of the Advance, as adjusted. No interest shall be paid by the Company on any amounts advanced. The Company shall make no refunds from any revenue received from properties other than those located within the phase of the Development covered by this Agreement and contained within the area identified in **Attachment 1** to this Agreement.

F. **Transfer of Facilities.** In the event of the sale, conveyance or transfer by the Company, pursuant to the approval of the Arizona Corporation Commission, of any portion of its wastewater system, including the facilities serving the Development and installed pursuant to the terms of this Agreement, the Company's obligation under Paragraph VIID hereto shall cease (except as to any payment which is then due) conditioned upon the transferee assuming, and agreeing to pay the Developer, any sums becoming payable to Developer thereafter in accordance with the provisions of Paragraph VIID of this Agreement.

G. **Company's Right of First Refusal.** Before selling or transferring the obligation of the Company under this Agreement to refund the Advance, Developer shall first give the Company, or its assigns, reasonable opportunity to purchase the same at the same price and upon the same terms as contained in any bona fide offer which Developer has received from any third person or persons which he may desire to accept. This provision shall not apply to Developer's assigning or pledging the Agreement in connection with any lender's requirements. Upon assignment, the Company shall make any refunds under the Agreement to the assignee.

## **VIII. RISK; LIABILITY; INSURANCE**

A. **Risk.** Developer shall carry on all work required hereunder at its own risk until the same is fully completed and accepted by the Company and will, in case of accident, destruction or injury to the work or material before such final completion and acceptance, replace or repair forthwith the work of materials so injured, damaged or destroyed, in accordance with the original approved plans and specifications and to the satisfaction of the Company and at Developer's own expense.

B. **Liability.** Developer hereby assumes the responsibility and liability for injury or death of any person, or loss for damage to any property occurring during construction of the facilities provided for in this Agreement to the extent contributed to or caused by the active or passive negligence of Developer, its agents, servants, employees, or subcontractors incurred during the course of construction of the facilities. Accordingly, DEVELOPER WILL INDEMNIFY AND HOLD HARMLESS the Company, its officers, directors, engineers, agents and employees from and against such claims or expenses, including penalties and assessments, to which they or any of them may be subjected by reason of such injury, death, loss, claim, penalty, assessment or damage, and in case any suit or other proceeding shall be brought on account thereof, Developer will assume the defense at Developer's own expense and will pay all judgments rendered to the extent Developer is responsible.

C. **Insurance.** Developer agrees to produce and maintain all insurances described below, including insurance covering the obligations assumed by Developer under Paragraph A and

Paragraph B hereof. Certificates of issuance shall be provided to the Company before the commencement of actual construction.

1. Workmans compensation in the benefit amounts, and occupational disease disability insurance, as required by the laws and regulations of the state.
2. Commercial general liability insurance, with minimum combined single limits of \$1,000,000.00, and including operations and protective liability coverages. When the work to be performed requires blasting, Developer's insurance shall specifically cover that risk.
3. Comprehensive automobile liability insurance, with minimum combined single limits of \$1,000,000.00, and covering all owned and non-owned automobiles or trucks used by or on behalf of Developer, in connection with the work.

#### **IX. MISCELLANEOUS**

This Agreement may not be modified or amended except by a writing signed by both parties. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. This Agreement is consistent with all Rules and Regulations of the Commission and authorized Tariffs of the Company and therefore does not require specific approval of the Commission. This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and expressly supersedes and revokes all other prior or contemporaneous promises, representations and assurances of any nature whatsoever with respect to the subject matter hereof. The remedies provided in this agreement shall not be deemed exclusive remedies but shall be in addition to all other remedies available at law or in equity. No waiver by either party of any breach of this agreement nor any failure by either party to insist on strict performance by the other party of any provision of this agreement shall in any way be construed to be a waiver of any future or subsequent breach by such defaulting party or bar the non-defaulting party's right to insist on strict performance by the defaulting party of the provisions of this agreement in the future. Developer is an independent contractor and not an agent or employee of the Company. This Agreement shall inure to the benefit of, be binding upon, and be enforceable by the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

#### **COMPANY**

JOHNSON UTILITIES, L.L.C., INC.

By: \_\_\_\_\_

Its: \_\_\_\_\_

#### **DEVELOPER**

[\_\_\_\_\_]

By: \_\_\_\_\_

Its: \_\_\_\_\_



**ATTACHMENT 1**

**MAP AND LEGAL DESCRIPTION OF DEVELOPMENT**

**ATTACHMENT 2**

**WASTEWATER UTILITY IMPROVEMENTS**

### ATTACHMENT 3

#### ESTIMATED ON-SITE AND OFF-SITE FACILITIES AND ESTIMATED COSTS FOR WASTEWATER SERVICES

<u>Description Phase</u> _____, <u>Parcel</u> _____	<u>Quantity</u>	<u>Unit</u>	<u>Refundable</u>	<u>Non- Refundable</u>	<u>TOTAL</u>
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Subtotal

Allocation of Off-Site Wastewater Facilities for  
Parcel \_\_\_\_\_

Subtotal

Engineer, Company Supervision and Legal Fees (10%)  
Off-Site Facilities Hook-Up Fee<sup>1</sup>  
TOTAL ADVANCE/CONTRIBUTION

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<sup>1</sup> These fees are the subject of a separate agreement between the parties.

## ATTACHMENT 3 WORKSHEET

### OFF-SITE WASTEWATER FACILITIES HOOK-UP FEES<sup>2</sup>

<u>Service Lateral Size</u>	<u>Fee</u>	<u>Number</u>	<u>Extended</u>
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Total Hook-up Fees

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<sup>2</sup> Developer has entered into a separate Master Utility Agreement for payment of these fees.